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HIGH COURT OF CHHATTISGARH, BILASPUR

Writ Petition (S) No. 7493 of 2007

PETITIONER Awinash Anand, S/o. Shri P.K. Anand, Aged about 41 years, Occupation- Service (Working as Assistant Grade- III in the Office of Chief Medical Officer, Ambikapur), R/o- Darripara, Rajendra Ward, Ambikapur, Distt. Surguja (C.G.)

Versus

RESPONDENTS

1. State of Chhattisgarh Through it's Secretary Department of Health and Family Welfare, D.K.S. Bhawan, Raipur (C.G.)
2. Collector, Ambikapur, Distt. Surguja (C.G.)
3. Chief Medical Officer, Ambikapur, Distt. Surguja (C.G.)

(Writ Petition under Article 226 of the Constitution of India)

Appearance:

Shri Vinay Pandey, counsel for the petitioner.

Ms. Sunita Jain, Panel Lawyer, for the State on advance copy.

ORAL ORDER
(19.12.2007)

SUNIL KUMAR SINHA, J.

Heard on admission.

The petitioner, who is working on the post of Assistant Grade-III, in the office of Chief Medical Officer (C.M.O.), Ambikapur, has been transferred to Community Health Center, Rajpur on administrative grounds.

On being pointedly asked from the learned counsel for the petitioner that since when the petitioner is working at Ambikapur, he submits that the petitioner is working there since the year 2002.

Learned counsel for the petitioner argues that this order was passed on 7.7.2006 but since a representation was filed by the petitioner on his health ground, he was not relieved and ultimately now he has been relieved vide order dated 11.12.2007 that means almost after more than 16 months now the petitioner is being relieved for his transferred place. He

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submits that now the administrative exigency does not survive, therefore, order should be cancelled.

I have heard the learned counsel for the petitioner and have also perused the records filed alongwith the writ petition.

Transfer is an incidence of service. No person working on a transferable post can claim to be posted at a particular place. It is for the employer to see that who should be posted where in the interest of better functioning of the department as also public interest. It is the settled view of the Apex Court that unless the order of transfer is vitiated by malafide or extraneous considerations or is against any statutory Rule or the Act, it cannot be interfered with by a Court of Law.

Learned counsel for the petitioner could not point out any ground of malafide, or extraneous considerations or that the order has been passed against any Statutory Rule or the Act.

I do not find any reason to interfere with the order of transfer of the petitioner. Moreover, the order was passed on 7.7.2006 and the petitioner was detained at Ambikapur for about 16 months on health ground, therefore, indeed there appears to be no merit in this writ petition. The same is liable to be dismissed and it is accordingly dismissed at the motion stage itself.

Sd/-
Sunil Kumar Sinha
Judge

vatti